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INTERIOR

LETTER FROM THE
ACTING SECRETARY
OF THE INTERIOR

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49TH CONGRESS, }
1st Session. }

SENATE.

{ Ex. Doc.
{ No. 126.

L E T T E R

FROM THE

ACTING SECRETARY OF THE INTERIOR,

TRANSMITTING.

In response to Senate resolution February 23, 1886, a report of the Commissioner of the General Land Office, relative to the lands granted to the Northern Pacific Railroad Company.

APRIL 20, 1886.—Laid on the table and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
Washington, April 17, 1886.

SIR: I have the honor to acknowledge the receipt of Senate resolution of February 23, 1886, as follows:

That the Secretary of the Interior be directed to furnish the Senate with copies of all official correspondence to the Interior Department with the Northern Pacific Railroad Company, its officers and agents, concerning the payment by said company of the cost of selecting, surveying, and conveying or patenting of lands granted to said company by act of Congress to aid in the construction of its road, together with a statement of the approximate amount of lands to which said company claims to have become entitled by reason of the construction and approval of sections of its road, the amount of lands heretofore surveyed within the limits of said grant, the number of acres of land in place and of indemnity lands which have been selected by the company and for which lists have been filed in the local land office and transmitted to the General Land Office for approval, the date when each list was received at the General Land Office and the number of acres contained in each list, the number of lists approved by the Secretary of the Interior and the date of such approval; the number of acres patented to said company and the dates of such patents; the number of acres for which the cost of surveying has been paid by said company, the number of acres for which the cost of selecting and listing has been paid by said company, and the number of acres for which the cost of patenting has been paid by said company, whether or not any patents are ready for delivery to said company, and whether the company has been notified of the same, and whether said company has, at any time, refused, after being notified of the approval of any certified list of selected lands and of the cost of the survey thereof, and of the readiness to issue said patents, to pay the cost of said survey and patent, and, if so, when.

Said resolution was on February 25 referred to the Commissioner of the General Land Office for report, a copy of which, dated the 14th instant, with its inclosures, is herewith transmitted, and will furnish the information called for.

Very respectfully,

H. L. MULDROW,
Acting Secretary.

The PRESIDENT PRO TEMPORE OF THE SENATE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., April 14, 1886.

SIR: I am in receipt, through reference by the Department on the 25th February last for report, of Senate resolution, passed the 23d February, directing the Secretary of the Interior to furnish the Senate with:

(1) Copies of all official correspondence of the Interior Department with the Northern Pacific Railroad Company, its officers and agents, concerning the payment by said company of the cost of selecting, surveying, and conveying or patenting of lands granted to said company by act of Congress to aid in the construction of its road.

(2) A statement of the approximate amount of lands to which said company claims to have become entitled by reason of the construction and approval of sections of its road.

(3) The amount of lands heretofore surveyed within the limits of said grant.

(4) The number of acres of land in place and of indemnity lands which have been selected by the company and for which lists have been filed in the local land office and transmitted to the General Land Office for approval, the date when each list was received at the General Land Office, and the number of acres contained in each list.

(5) The number of lists approved by the Secretary of the Interior and the date of such approval.

(6) The number of acres patented to said company and the dates of such patents.

(7) The number of acres for which the cost of surveying has been paid by said company.

(8) The number of acres for which the cost of selecting and listing has been paid by said company.

(9) The number of acres for which the cost of patenting has been paid by said company.

(10) Whether or not patents are ready for delivery to said company, and whether the company has been notified of the same.

(11) Whether said company has at any time refused after being notified of the approval of any certified list of selected lands and of the cost of the survey thereof, and of the readiness to issue said patents, to pay the cost of said survey and patent, and if so, when.

In reply, I have to report as follows, answering the several inquiries in the order hereinbefore set forth:

(1) I transmit copies of all correspondence on file or of record in this office between the office and the officers and agents of the Northern Pacific Railroad Company concerning the payment by said company of the cost of selecting, surveying, and conveying the lands granted to it by act of June 2, 1864. The papers transmitted are fully described in the schedule herewith marked A.

(2) Said company claims, by reason of the construction and acceptance of the several sections of its road, to have become entitled to forty sections per mile whenever the road is located in a Territory and twenty sections per mile when it passes through a State, and that if there is not within its granted and indemnity limits in any State or Territory the amount claimed to have been granted to aid in the construction of its road in such State or Territory, that it is entitled to make up the deficiency from its indemnity limits in any other State or Territory.

Said company has constructed 2,021.38 miles of its road, all of which has been accepted by the President. Of the road so constructed 351.80 miles are within the States of Wisconsin, Minnesota, and Oregon, and 1,669.58 miles within the Territories of Dakota, Montana, Idaho, and Washington.

If the company's claims were tenable, it would be entitled, by reason of the construction of its road through the States named, to 4,503,040 acres, and to 42,741,248 acres for its road through the Territories, or 47,244,288 acres in all.

This office, however, does not admit that the whole of said 2,021 miles is land-grant road. On January 12, 1886, I held, in the case of Donald McRae vs. Northern Pacific Railroad Company, that the joint resolu-

tion of May 31, 1870 (16 Stat., 378), did not make a grant of lands to said company to aid in the construction of its road between Portland, Oreg., and Tacoma, Wash. The length of the road between said points is 142.40 miles, of which 36.30 miles are in the State of Oregon and 106.10 miles in the Territory of Washington, and should said decision be sustained the amount claimed as above set forth would have to be reduced by 3,200,800 acres.

While no decision has been made as to the quantity or volume of the grant, it is, in my judgment, what is known as a grant in place, *i. e., a grant of the odd-numbered sections within 20 or 40 miles of the road*, as the case may be, with the right to supply from the indemnity limits such deficiencies as may exist in the grant by reason of sales, pre-emp-tions, &c., prior to the location of the road; but should no *land* be found *in place* no indemnity can be allowed. Neither is the company, in my opinion, entitled to indemnity for all losses which it may sustain in its granted limits. The joint resolution of May 31, 1870, as understood by me, restricts the right of indemnity to losses which occurred between the date of the grant and the location of the road, and the selection in satisfaction of such right to the particular State or Territory in which the loss occurred.

Waiving all question of forfeiture which has arisen by reason of the failure of the company to locate and construct its road within the time specified in the granting act, an adjustment on the basis last described would result in a very large reduction from the full quantity stated above, but as no adjustment has been made, I am unable at this time to give the amount of such reduction.

(3) The amount of land surveyed within the 20 and 40 miles limits of the withdrawal for said road is established at about 21,732,542 acres, distributed as follows:

	Acres.
Wisconsin	785,482
Minnesota	2,837,060
Dakota	5,561,200
Montana	3,569,650
Idaho	70,007
Washington	7,370,818
Oregon	1,538,325
Total	21,732,542

(4) I transmit herewith (marked B) a tabular statement showing the number of acres in place and of indemnity lands selected by said company; the date of the approval of each list by the local land officers; the date of the receipt of each list at this office; the number of acres contained in each list; the number of acres selected each year in each of the several States and Territories in which the grant is situated, and the total number of acres selected each year.

An examination of said statement shows that said company has selected 7,903,026.25 acres within its granted limits, and 3,343,395.07 acres of indemnity lands, or 11,246,421.32 acres in all, distributed as follows:

State or Territory.	Granted limits.	Indemnity limits.	Total.
	Acres.	Acres.	Acres.
Wisconsin	2,195.30	6,436.75	8,632.05
Minnesota	1,334,189.30	694,163.30	2,028,352.60
Dakota	5,442,840.70	1,104,438.13	6,547,278.83
Montana	981,440.58	648,019.62	1,629,460.20
Idaho		9,450.13	9,450.13
Washington	142,360.37	635,500.75	777,861.12
Oregon		245,386.39	245,386.39
Total	7,903,026.25	3,343,395.07	11,246,421.32

(5 and 6) Six lists embracing 746,589.52 acres, of which 743,573.44 acres are in the State of Minnesota, and 3,016.08 acres in the Territory of Washington, have been approved by the Secretary of the Interior. Following the approval of said lists the lands embraced therein were patented to the railroad company.

I transmit herewith (marked C) a statement showing the date of approval and the number of acres included in each list, and the date of and the number of acres included in each patent.

(7) The cost of surveying, amounting to \$42,686.50, has been paid by said company on 1,131,224.19 acres, of which 746,589.52 acres have been patented to the company, and 384,634.67 acres have not been patented.

(8) The regulations of this office make the payment of the cost of selecting a condition precedent to the approval of the lists of selections by the local officers; hence the number of acres selected (11,246,421.32 acres) is the number of acres for which the cost of selecting and listing has been paid.

(9) The cost of patenting is assessed at the rate of 30 cents per 100 words (15 for writing and 15 for recording), and \$1 for the seal of the office, and is payable when patent is ready for delivery. The cost of patenting, amounting to \$168.85, has been paid on all the patented lands, viz, 746,589.52 acres.

(10) No patents are ready for delivery, as the issue of patents to said company is, and has been for several years, suspended on account of the failure of the company to locate and construct its road within the time required by the granting act.

(11) Said company has not at any time after being advised of the readiness of this office to issue patents directly refused to pay the cost of survey and patent, but it did fail to make its selections, and thereby to put this office in a position of readiness to issue patents. It could at any time between 1873 and 1880 have received patents for its lands in Minnesota, and, as fast as surveyed, East of the Missouri River in Dakota, had it made its selections and paid the fees. It did, moreover, for several years refuse to pay the cost of surveying 743,573.44 acres in the State of Minnesota which were patented in 1873, when this office overlooked the act of July 15, 1870, requiring such payment, and only paid the same when instructions were issued to the local land officers to refuse to receive its selections.

The resolution is herewith returned.

Very respectfully, your obedient servant,

WM. A. J. SPARKS,
Commissioner.

Hon. L. Q. C. LAMAR,
Secretary of the Interior.

A.

Schedule of papers relating to payment of costs of selecting, surveying, and conveying lands granted to the Northern Pacific Railroad Company, accompanying letter from the Commissioner of the General Land Office to the Secretary of the Interior, April 14, 1886.

(1) Copy of letter dated May 23, 1874, from W. K. Mendenhall, attorney for Northern Pacific Railroad Company, asking that patent be issued to said company for certain lands in Dakota

(2) Copy of office letter of May 27, 1874, to W. K. Mendenhall, declining to patent lands to company until fees had been paid, not only on lands asked to be patented, but on those already patented.

(3) Copy of letter from W. K. Mendenhall, June, 1874, asking repayment of fees paid by Northern Pacific Railroad Company for selecting certain lands afterwards awarded to Saint Paul and Pacific Railroad Company.

(4) Copy of office letter of June 27, 1874, to W. K. Mendenhall, that the money referred to in his letter of June 26, having been covered into the Treasury, was beyond the control of this office.

(5) Copy of letter from W. K. Mendenhall, June 29, 1874, asking that the company be allowed credit for selection fees referred to in his letter of June 26, 1874.

(6) Copy of office letter to W. K. Mendenhall, July 14, 1874, that company will be allowed credit for selection fees, as requested in his letter of June 29, 1874.

(7) Copy of office letter to W. K. Mendenhall, March 29, 1882, requesting payment of \$26,182.38, being cost of surveying and conveying certain lands patented to Northern Pacific Railroad Company in 1873.

(8) Copy of letter of argument by George Gray, general counsel, Northern Pacific Railroad Company, April 3, 1882, claiming that said company was not required to pay cost of surveying and conveying.

(9) Copy of office letter to Secretary of the Interior, April 28, 1882, transmitting Mr. Gray's argument and recommending that steps be taken to secure payment.

(10) Copy of letter from Secretary of the Interior, June 5, 1882, directing that no further patents be issued until cost of selecting, surveying, and conveying lands covered thereby has been paid; that further patents be withheld until the \$26,182.38 then due should be paid, and that the company's right of selection be not recognized until such payment should be made.

(11) Copy of office letter to George Gray, June 10, 1882, advising him of Secretary's decision, and that the company's right of selection would not be recognized until the \$26,182.38 had been paid.

(12) Copy of office letter to W. K. Mendenhall, June 10, 1882, advising him of Secretary's decision, &c.

(13) Copy of office letter of June 10, 1882, to the local officers for the several land districts in which the grant to the Northern Pacific Railroad Company is situated, directing them to decline to receive selections by said company until further orders.

(14) Copy of letter from George Gray, September, 1882, stating that the company had that day paid the \$26,182.38 then due.

(15) Copy of office letter to George Gray, October 6, 1882, requesting that the duplicate certificate of deposit be forwarded to this office.

(16) Copy of letter from Secretary of the Treasury, December 5, 1882, transmitting certified copy of certificate of deposit No. 27, O" O, by Northern Pacific Railroad Company, for \$26,182.38.

(17) Copy of certified copy of certificate of deposit No. 27,030.

(18) Copy of office letter of December 14, 1882, to local officers, recalling instructions of June 10, 1882, against the company's right of selection.

(19) Copy of office letter to W. K. Mendenhall, December 14, 1882, that instructions of June 10, 1882, have been recalled.

(20) Copy of letter from Robert Harris, president of Northern Pacific Railroad Company, February 12, 1886, asking that the surveyor-general for Dakota be instructed to furnish said company with statement of cost of surveying lands in Cass County.

(21) Copy of office letter to Robert Harris, February 19, 1886, that statement of cost of surveying lands in Cass County, Dakota, will be furnished.

(22) Copy of letter from Robert Harris, February 24, 1886, inclosing copy of resolution passed by directors of Northern Pacific Railroad Company, that said company is ready to pay cost of surveying, selecting, and conveying, and requesting that patents be issued for lands already selected.

(23) Copy of resolution transmitted by Mr. Harris.

(24) Copy of office letter to Robert Harris, March 9, 1886, containing statement of cost of surveying certain lands in Dakota.

B.

Statement showing the number of acres in place, and of indemnity lands selected by the Northern Pacific Railroad Company, the date of approval of each list of selection by the local land officers, the date of the receipt of each list at the General Land Office, and the number of acres included in each list.

No. of list.	Land district.	Date of approval by local officers.	Date of receipt at General Land Office.	Granted limits.	Indemnity limits.
	WISCONSIN.			Acres.	Acres.
1	Bayfield	Sept. 13, 1883	Sept. 21, 1883	2, 195. 30	
2	do	do	do		6, 436. 75
	MINNESOTA.				BAKE
1	Alexandria	July 1, 1872	July 19, 1872	74, 371. 98	
1	Oak Lake	Aug. 27, 1872	Sept. 10, 1872	83, 055. 07	
2	do	Sept. 30, 1872	Oct. 11, 1872	32, 897. 70	
1	Saint Cloud	Dec. 20, 1872	Feb. 26, 1873	89, 850. 88	
3	Oak Lake	Feb. 8, 1873	Mar. 14, 1873	112, 724. 38	
2	Saint Cloud	Feb. 20, 1873	Mar. 1, 1873	94, 682. 48	
4	Oak Lake	Mar. 10, 1873	Mar. 17, 1873	106, 573. 90	
3	Saint Cloud	Mar. 11, 1873	Mar. 18, 1873	110, 428. 57	
2	Alexandria	Mar. 21, 1873	Apr. 9, 1873	70, 641. 72	
1	Duluth	Mar. 22, 1873	Apr. 10, 1873	3, 925. 28	
1	Taylor's Falls	May 17, 1873	May 23, 1873	17, 919. 32	
5	Oak Lake	Apr. 10, 1873	Apr. 10, 1873	98, 664. 73	
4	Saint Cloud	Aug. 4, 1873	Aug. 9, 1873	78, 469. 93	
5	do	do	do	16, 396. 41	
2	Duluth	May 27, 1876	June 3, 1876	28, 517. 85	
3	do	do	do		21, 498. 33
6	Detroit	May 21, 1877	May 28, 1877	32, 680. 19	
3	Fergus Falls	May 26, 1877	June 4, 1877	9, 735. 02	
6	Saint Cloud	Feb. 14, 1880	Mar. 23, 1880	81, 788. 53	
7	do	Sept. 27, 1880	Oct. 19, 1880	108, 989. 21	
2	Taylor's Falls	Feb. 8, 1881	Feb. 14, 1881		2, 288. 50
7	Crookston	Mar. 15, 1883	Apr. 3, 1883	59, 230. 23	
8	do	Mar. 16, 1883	do		62, 376. 19
9	do	do	do		19, 853. 13
5	Duluth	do	May 4, 1883	47. 34	
6	do	do	do	1, 080. 00	
7	do	do	do		10, 084. 13
8	Saint Cloud	Mar. 22, 1883	Apr. 17, 1883		3, 273. 83
9	do	do	do		11, 996. 82
12	do	do	do		80. 00
13	do	do	do		40. 00
14	do	do	do	7, 346. 42	
15	do	Mar. 31, 1883	do	542. 50	
8	Duluth	Apr. 23, 1883	May 4, 1883		15, 974. 57
18	Saint Cloud	June 18, 1883	July 9, 1883		30, 717. 08
3	Taylor's Falls	June 22, 1883	June 28, 1883	2, 045. 75	
5	do	do	do		7, 392. 10
10	Saint Cloud	July 30, 1883	Aug. 21, 1883		165, 304. 64
19	do	do	do		19, 308. 51
21	do	do	do	3, 030. 56	
11	do	Sept. 20, 1883	Oct. 26, 1883		30, 846. 00
7	Taylor's Falls	Sept. 29, 1883	Oct. 6, 1883		9, 096. 85
9	do	do	do		2, 857. 94
10	do	do	do	200. 11	
6	Fergus Falls	Oct. 15, 1883	Oct. 22, 1883	1, 443. 87	
12	Crookston	do	Oct. 31, 1883		24, 264. 25
9	Duluth	Oct. 16, 1883	Nov. 20, 1883	5, 629. 93	
10	do	Oct. 17, 1883	do		27, 880. 93
11	do	do	do		7, 032. 86
14	do	do	do		24, 899. 46
15	do	do	do		43, 548. 12
20	Saint Cloud	do	Oct. 31, 1883		137, 278. 92
13	Crookston	Oct. 20, 1883	do		7, 529. 13
22	Saint Cloud	Nov. 7, 1883	Dec. 14, 1883		823. 00
23	do	do	do	1, 084. 52	
26	do	do	do		274. 35
16	Duluth	Nov. 9, 1883	Nov. 20, 1883		4, 199. 02
16	Crookston	Dec. 12, 1883	Jan. 23, 1884		480. 00
17	do	Dec. 13, 1883	do	14. 35	
20	Duluth	Dec. 14, 1883	Dec. 21, 1883	80. 00	
21	do	do	do		74. 83
12	Taylor's Falls	Dec. 17, 1883	do	40. 00	
14	do	Jan. 24, 1884	Jan. 28, 1884		1, 352. 25
17	do	Apr. 27, 1885	May 2, 1885		604. 79
29	Saint Cloud	May 28, 1885	June 28, 1885	40. 00	
30	do	do	do		32. 12
	Total			1, 334, 189. 30	694, 163. 30

Statement showing the number of acres in place, and of indemnity lands selected by the Northern Pacific Railroad Company—Continued.

No. of list.	Land district.	Date of approval by local officers.	Date of receipt at General Land Office.	Granted limits.	Indemnity limits.
	DAKOTA.			Acres.	Acres.
1	Pembina	Feb. 28, 1874	Mar. 6, 1874	3, 773. 77	
2	Fargo	July 30, 1875	Aug. 7, 1875	5, 234. 37	
3	do	June 29, 1876	July 10, 1876	40, 205. 60	
4	do	Sept. 7, 1876	Oct. 11, 1876	29, 816. 47	
5	do	Mar. 31, 1877	May 24, 1877		1, 790. 46
6	do	Mar. 19, 1883	Sept. 13, 1883		438, 983. 48
7	do	Apr. 9, 1883	Apr. 7, 1884		69, 696. 58
8	do	do	do		38, 304. 48
9	Bismarck	May 14, 1883	Aug. 15, 1883		67, 527. 11
10	Fargo	July 7, 1883	Apr. 7, 1884	1, 011, 734. 84	
11	do	do	do	1, 287, 705. 62	
12	do	July 12, 1883	do		20, 443. 44
2	Bismarck	Aug. 8, 1883	Sept. 27, 1883	241, 012. 77	
3	do	do	Nov. 3, 1883	475, 978. 99	
4	do	Sept. 29, 1883	Dec. 3, 1883	660, 249. 23	
13	Fargo	Oct. 8, 1883	Apr. 7, 1884	499, 314. 75	
5	Bismarck	Nov. 9, 1883	Dec. 3, 1883		1, 108. 60
6	do	do	do	34, 802. 16	
7	do	do	Dec. 3, 1883	92, 097. 07	
14	Fargo	Mar. 5, 1884	Apr. 7, 1884		647. 29
15	do	do	do		23, 467. 88
16	do	do	do	44, 688. 20	
17	do	do	do		28, 170. 94
8	Bismarck	Mar. 6, 1884	Apr. 11, 1884		19, 541. 22
9	do	do	do	91, 868. 52	
10	do	Mar. 31, 1884	do		238. 93
11	do	do	do	61, 107. 47	
12	do	do	do	21, 538. 86	
13	do	Apr. 10, 1884	May 20, 1884	34, 642. 76	
14	do	do	do	35, 031. 74	
15	do	do	do	46, 093. 66	
16	do	Apr. 11, 1884	do	124, 780. 02	
17	do	June 13, 1884	June 25, 1884	116, 030. 36	
18	do	do	do		22, 093. 86
19	do	Aug. 30, 1884	Sept. 18, 1884	11, 557. 41	
20	do	Sept. 30, 1884	Nov. 12, 1884	206, 429. 70	
18	Fargo	Oct. 14, 1884	Sept. 22, 1885		13, 476. 98
21	Bismarck	Oct. 18, 1884	Dec. 3, 1884		34, 903. 68
19	Fargo	Oct. 29, 1884	Sept. 22, 1885		38, 070. 43
22	Bismarck	Nov. 12, 1884	Dec. 8, 1884		45, 922. 34
20	Fargo	Dec. 16, 1884	Sept. 22, 1885	46, 798. 08	
23	Bismarck	Dec. 19, 1884	Jan. 10, 1885	22, 852. 15	
24	do	Dec. 29, 1884	do	93, 116. 86	
25	do	Jan. 8, 1885	Feb. 7, 1885	4, 291. 14	
26	do	do	do		15, 761. 54
27	do	Mar. 7, 1885	Apr. 6, 1885	32, 825. 93	
28	do	do	do		71, 943. 46
29	do	do	do	12, 027. 80	
21	Fargo	Mar. 24, 1885	Sept. 22, 1885		18, 859. 12
22	do	do	do	954. 60	
30	Bismarck	Mar. 31, 1885	Apr. 6, 1885		107, 540. 20
31	do	do	do	5, 709. 04	
32	do	Apr. 27, 1885	May 9, 1885		7, 653. 24
33	do	Aug. 5, 1885	Sept. 8, 1885		10, 971. 89
34	do	Aug. 24, 1885	do	43, 879. 83	
35	do	do	do	4, 690. 93	
	Total			5, 442, 840. 70	1, 104, 438. 13
	MONTANA.				
1	Helena	Nov. 14, 1882	Nov. 22, 1882		320. 00
1	Missoula City	June 23, 1883	July 21, 1883	196, 234. 21	
2	do	May 20, 1884	June 9, 1884	106, 917. 15	
3	do	do	do	99, 740. 23	
4	do	Sept. 30, 1884	Oct. 23, 1884		71, 977. 33
5	do	Oct. 31, 1884	Nov. 17, 1884		1, 718. 63
1	Helena	Nov. 18, 1884	Dec. 12, 1884		640. 80
2	do	Dec. 18, 1884	Jan. 15, 1885		25, 334. 20
1	Bozeman	Dec. 25, 1884	Jan. 17, 1885	4, 456. 10	
2	do	Jan. 31, 1885	Feb. 14, 1885	30, 094. 98	
3	Helena	Feb. 11, 1885	Mar. 13, 1885		74, 471. 76
4	do	Feb. 26, 1885	do		219, 596. 51
5	do	Mar. 25, 1885	Apr. 10, 1885		59, 364. 68

Statement showing the number of acres in place, and of indemnity lands selected by the Northern Pacific Railroad Company, &c.—Continued.

No. of list.	Land district.	Date of approval by local officers.	Granted limits.	Date of receipt at General Land Office.	Indemnity limits.
MONTANA—continued.					
3	Bozeman	Mar. 25, 1885	Apr. 14, 1885	Acres.	Acres.
6	Miles City	Apr. 17, 1885	May 12, 1885		17, 181. 79
7	do	Apr. 22, 1885	do		22, 887. 89
6	Helena	Apr. 24, 1885	May 13, 1885		60, 549. 27
4	Bozeman	May 4, 1885	June 16, 1885		17, 474. 83
5	Bozeman	June 23, 1885	June 30, 1885		2, 528. 05
6	do	June 27, 1885	July 9, 1885	174, 681. 67	10, 500. 92
7	Helena	July 2, 1885	July 24, 1885		
7	Bozeman	July 20, 1885	July 27, 1885	121, 193. 01	39, 948. 76
8	Helena	July 28, 1885	Aug. 13, 1885		23, 524. 20
8	Miles City	Sept. 4, 1885	Nov. 21, 1885	106, 925. 91	
9	Helena	Oct. 17, 1885	Nov. 11, 1885	628. 36	
10	do	Oct. 23, 1885	do	6, 446. 22	
10	Bozeman	Jan. 12, 1886	Jan. 18, 1886	134, 122. 74	
Total				981, 440. 58	648, 019. 62
IDAHO.					
1	Lewiston	Aug. 1, 1885	Aug. 18, 1885		9, 450. 13
WASHINGTON.					
1	Olympia	Aug. 17, 1876	Aug. 29, 1876		2, 200. 00
2	do	Dec. 20, 1877	Jan. 7, 1878	3, 140. 32	
1	Colfax	Mar. 2, 1882	Mar. 20, 1882		2, 840. 00
2	Spokane Falls	Dec. 17, 1883	Jan. 3, 1884		59, 548. 74
1	Walla Walla	Jan. 5, 1884	Jan. 23, 1884		73, 395. 26
1	Vancouver	Feb. 26, 1884	Mar. 8, 1884		3, 743. 01
3	Spokane Falls	Mar. 20, 1884	July 23, 1884		26, 666. 81
4	do	May 14, 1884	Sept. 14, 1885	6, 311. 98	
3	Olympia	Aug. 27, 1884	Sept. 6, 1884	10, 923. 05	
1	Yakima	Dec. 8, 1884	Feb. 3, 1885		360. 00
2	Vancouver	Dec. 31, 1884	Jan. 23, 1885		3, 931. 15
3	do	do	do	1, 430. 27	
4	do	do	do	37, 135. 12	
5	do	do	do		78. 54
6	do	Feb. 2, 1885	Feb. 16, 1885		480. 00
4	Olympia	Feb. 23, 1885	Mar. 11, 1885	1, 933. 84	
7	Vancouver	Mar. 31, 1885	Apr. 10, 1885	36, 435. 41	
3	Walla Walla	Apr. 20, 1885	Apr. 29, 1885		12, 946. 69
6	Olympia	May 12, 1885	May 22, 1885		20, 654. 21
4	Walla Walla	May 14, 1885	do		27, 455. 67
5	Spokane Falls	May 14, 1885	May 28, 1885		54, 491. 52
7	Olympia	May 16, 1885	do		5, 791. 84
8	Vancouver	May 18, 1885	do		92, 049. 81
8	Olympia	May 22, 1885	June 2, 1885		58, 048. 19
9	Vancouver	May 23, 1885	do		25, 733. 03
6	Spokane Falls	May 25, 1885	June 4, 1885		90, 378. 57
9	Olympia	June 5, 1885	June 17, 1885		28, 224. 99
2	Yakima	June 13, 1885	July 3, 1885		26, 334. 61
7	Spokane Falls	July 14, 1885	July 24, 1885		14, 757. 20
10	Olympia	July 16, 1885	July 25, 1885		3, 976. 75
11	do	July 31, 1885	Aug. 11, 1885		934. 16
8	Spokane Falls	Aug. 3, 1885	Aug. 14, 1885		80. 00
12	Olympia	Sept. 12, 1885	Sept. 22, 1885	36, 211. 28	
12	Vancouver	Nov. 20, 1885	Nov. 30, 1885	8, 839. 00	
Total				142, 360. 37	635, 500. 75
OREGON.					
1	La Grande	May 7, 1885	May 16, 1885		70, 549. 33
1	The Dalles	May 8, 1885	May 28, 1885		174, 837. 06
Total					245, 386. 39

RECAPITULATION.

Number of acres in place and of indemnity lands selected in each State and Territory.

State or Territory.	Granted limits.	Indemnity limits.	Total.
	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>
Wisconsin	2, 195. 30	6, 436. 75	8, 632. 05
Minnesota	1, 334, 189. 30	694, 163. 30	2, 028, 352. 60
Dakota	5, 442, 840. 70	1, 104, 438. 13	6, 547, 278. 83
Montana	981, 440. 58	648, 019. 62	1, 629, 460. 20
Idaho		9, 450. 13	9, 450. 13
Washington	142, 360. 37	635, 500. 75	777, 861. 12
Oregon		245, 386. 39	245, 386. 39
Total	7, 903, 026. 25	3, 343, 395. 07	11, 246, 421. 32

Statement showing the number of acres in place and of indemnity lands selected by the Northern Pacific Railroad Company each year in the several States and Territories in which said company's grant is situated.

State.	Year.	Granted limits.	Indemnity limits.	Total.
		<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>
Wisconsin	1883	2, 195. 30	6, 436. 75	8, 632. 05
Minnesota	1872	280, 175. 63		280, 175. 63
	1873	710, 446. 69		710, 446. 69
	1876	28, 517. 85	21, 498. 33	50, 016. 18
	1877	42, 415. 81		42, 415. 81
	1880	190, 777. 74		190, 777. 74
	1881		2, 288. 50	2, 288. 50
	1883	81, 815. 58	668, 387. 31	750, 202. 89
	1884		1, 352. 25	1, 352. 25
	1885	40. 00	636. 91	676. 91
Total		1, 334, 189. 30	694, 163. 30	2, 028, 352. 60
Dakota	1874	3, 773. 77		3, 773. 77
	1875	5, 234. 37		5, 234. 37
	1876	70, 022. 07		70, 022. 07
	1877		1, 790. 46	1, 790. 46
	1883	4, 302, 895. 43	636, 711. 04	4, 939, 606. 47
	1884	956, 535. 79	233, 207. 18	1, 189, 742. 97
	1885	104, 379. 27	232, 729. 45	337, 108. 72
Total		5, 442, 840. 70	1, 104, 438. 13	6, 547, 278. 83
Montana	1882		320. 00	320. 00
	1883	196, 234. 21		196, 234. 21
	1884	211, 113. 48	99, 670. 96	310, 784. 44
	1885	439, 970. 15	548, 028. 66	987, 998. 81
	1886	131, 122. 74		131, 122. 74
Total		981, 440. 58	648, 019. 62	1, 629, 460. 20
Idaho	1885		9, 450. 13	9, 450. 13
Washington	1876		2, 200. 00	2, 200. 00
	1877	3, 140. 32		3, 140. 32
	1882		2, 840. 00	2, 840. 00
	1883		59, 548. 74	59, 548. 74
	1884	55, 800. 42	108, 174. 77	163, 975. 19
	1885	83, 419. 63	462, 737. 24	546, 156. 87
Total		142, 360. 37	635, 500. 75	777, 861. 12
Oregon	1885		245, 386. 39	245, 386. 39

RECAPITULATION.

Number of acres in place and of indemnity land selected each year.

Year.	Granted limits.	Indemnity limits.	Total.
	<i>Acres.</i>	<i>Acres.</i>	<i>Acres.</i>
1872	280, 175. 63		280, 175. 63
1873	710, 446. 69		710, 446. 69
1874	3, 773. 77		3, 773. 77
1875	5, 234. 37		5, 234. 37
1876	98, 539. 92	23, 698. 33	122, 238. 25
1877	45, 556. 13	1, 790. 46	47, 346. 59
1880	190, 777. 74		190, 777. 74
1881		2, 288. 50	2, 288. 50
1882		3, 160. 00	3, 160. 00
1883	4, 583, 140. 52	1, 371, 083. 84	5, 954, 224. 36
1884	1, 223, 449. 69	442, 405. 16	1, 665, 854. 75
1885	627, 809. 05	1, 498, 968. 78	2, 126, 777. 83
1886	134, 122. 74		134, 122. 74
Total	7, 903, 026. 25	3, 343, 395. 07	11, 246, 421. 32

C.

Statement showing the number of acres of land approved by the Secretary of the Interior and subsequently patented to the Northern Pacific Railroad Company, the date of approval of each list, and the date of each patent.

GRANTED LIMITS.

No. of list.	State or Territory.	Acres.	Date of approval.	Date of patent.	No. of patent.
1	Minnesota	190, 290. 70	Jan. 13, 1873	Jan. 18, 1873	1
2	do.	184, 595. 06	Apr. 7, 1873	Apr. 24, 1873	2
3	do.	255, 832. 09	June 12, 1873	July 7, 1873	3
4	do.	17, 919. 32	July 12, 1873	Aug. 7, 1873	4
5	do.	94, 936. 27	Oct. 13, 1873	Nov. 4, 1873	5
	Total	743, 573. 44			
1	Washington	3, 016. 08	Mar. 24, 1880	Apr. 8, 1880	6

RECAPITULATION.

	<i>Acres.</i>
Minnesota	743, 573. 44
Washington	3, 016. 08
Total	746, 589. 52

(1.)

NORTHERN PACIFIC RAILROAD COMPANY,
LAND DEPARTMENT,
Washington, D. C., May 23, 1874.

SIR: The Northern Pacific Railroad Company are desirous of obtaining patent for the lands selected by them in Dakota Territory, a list of which is now on your files.

If no objection exists, I respectfully ask that the same may be passed into patent as early as possible. Please inform me of your action in the premises.

Very respectfully,

W. K. MENDENHALL.

Hon. W. W. CURTIS,
Acting Commissioner General Land Office.

(Indorsement:) L. 3186. W. K. Mendenhall, Washington, D. C., May 23, 1874, asks for patent for Northern Pacific Railroad Company for lands in Dakota Territory.

(2.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., May 27, 1874.

SIR: In reply to your letter of 23d instant, stating that the Northern Pacific Railroad Company are desirous of obtaining at an early date patent for the lands selected by them in Dakota Territory, a list of which is now before this office, I have to state that, in accordance with the act of Congress approved July 15, 1870 (Stat. 16, p. 305), requiring the company to pay the cost of surveying, selecting, and conveying their lands before receiving patents, I decline to certify any more lands for patent to the company until such fees are paid, not only on the lands asked to be patented, but on those already patented.

Very respectfully,

W. W. CURTIS,
Acting Commissioner.

W. K. MENDENHALL, Esq.,
*Attorney Northern Pacific Railroad Company,
 Washington, D. C.*

(3.)

NORTHERN PACIFIC RAILROAD COMPANY, LAND DEPARTMENT,
Washington, D. C., June 26, 1874.

SIR: The Northern Pacific Railroad Company paid fees to the amount of \$3,768.60 on certain lands in the Oak Lake and Alexandria land district, Minnesota, for which lands the company have failed to receive patents for the reason that in the opinion of the Secretary of the Interior the lands inure to the grant for the Saint Paul and Pacific Railroad Company (Saint Vincent extension). The company now asks that this money may be refunded to them, but desire it to be distinctly understood that this application is not to be construed as in any way a relinquishment of the land in question, and is not to prejudice the right of the company to renew at any future time its application for the lands, should the courts give a favorable decision to their right thereto.

I therefore respectfully ask that you will give such instructions to the company and the district land officers as will enable us to obtain the money.

Very respectfully,

W. K. MENDENHALL,
For Northern Pacific Railroad Company.

Hon S. S. BURDETT,
Commissioner General Land Office.

(4.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., June 27, 1874.

SIR: In reply to your letter of 26th instant, respecting certain fees paid by the Northern Pacific Railroad Company on selections made of lands in the Oak Lake and Alexandria land districts, Minnesota, but subsequently awarded by the honorable Secretary of the Interior to the Saint Paul and Pacific Railroad Company (Saint Vincent extension), I have to state that the money has been paid and covered into the Treasury, and therefore is beyond the control of this office.

Very respectfully,

S. S. BURDETT,
Commissioner.

W. K. MENDENHALL, Esq.,
Washington, D. C.

(5.)

NORTHERN PACIFIC RAILROAD COMPANY, LAND DEPARTMENT,
Washington, D. C., June 29, 1874.

SIR: In my letter of 26th instant relative to fees paid by the Northern Pacific Railroad Company for lands subsequently awarded to the Saint Paul and Pacific Railroad Company it was my intention to have asked, in case the money could not be returned,

that the company should be allowed credit for the same upon future selections under their grant, as has been the rule in other like cases; I refer you particularly to the case of the Saint Paul and Sioux City and Winona and Saint Peter Railroads case. I therefore now ask that you will accord to this company the same privilege heretofore granted other railroad companies under similar circumstances.

Very respectfully,

W. K. MENDENHALL,
Attorney Northern Pacific Railroad Company.

Hon. S. S. BURDETT,
Commissioner General Land Office.

(6.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., July 14, 1874.

SIR: In reply to your letter of 29th ultimo respecting the fees paid by your company on certain lands afterwards found to be in the limits of the Saint Paul and Pacific Railroad, Saint Vincent extension, and therefore rejected from the lists certified for your road, I have to state, that we will credit you with that amount on selections hereafter to be made on account of your grant. There is no provision of law which authorizes this office to return the amount thus erroneously paid.

Very respectfully,

S. S. BURDETT,
Commissioner.

W. K. MENDENHALL, Esq.,
Attorney Northern Pacific Railroad Company, Washington, D. C.

(7.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 29, 1882.

SIR: By a proviso to the act of Congress approved July 15, 1870 (16 Stats, 305), the Northern Pacific Railroad Company is required to pay the cost of surveying, selecting, and conveying the lands granted to it by the act of July 2, 1864.

Upon examination, I find that said company has not paid the cost of surveying and conveying 743,906.64 acres of land in Minnesota, for which patents issued in 1873. Said costs amount to \$26,182.38, and I have to request through you the payment of that sum into the Treasury, as required by the act cited.

Stated in detail, the costs are as follows:

Survey, including field and office work, of 190,290.70 acres in patent No. 1, dated January 18, 1873	\$6,645 16	
Conveying same	24 42	\$6,769 68
Survey, &c., of 184,923.26 acres in patent No. 2, dated April 24, 1873	5,399 71	
Conveying same	39 77	5,439 48
Survey, &c., of 255,832.09 acres in patent No. 3, dated July 7, 1873	10,180 68	
Conveying same	53 86	10,234 54
Survey, &c., of 17,919.32 acres in patent No. 4, dated August 7, 1873	424 09	
Conveying same	8 96	433 05
Survey, &c., of 94,936.27 acres in patent No. 5, dated November 4, 1873	3,270 89	
Conveying same	34 74	3,305 63
Total		26,182 38

I have to ask, further, that you communicate this request to the proper officers of said company, and that speedy action be taken thereon.

Very respectfully,

N. C. McARTHUR,
Commissioner.

W. K. MENDENHALL, Esq.,
Attorney for Northern Pacific Railroad Company, Washington, D. C.

(8.)

OFFICE OF THE GENERAL COUNSEL OF THE
NORTHERN PACIFIC RAILROAD COMPANY,
No. 2 Nassau Street, New York, April 3, 1882.

SIR: Your letter, F, dated 29th ultimo, to W. K. Mendenhall, esq., attorney for Northern Pacific Railroad Company at Washington, requesting through him payment into the Treasury of \$26,182.38 as the costs of surveying and conveying 743,906.64 acres of land in Minnesota, for which patents issued in 1873, which costs, you state, the company is required to pay by a proviso to the act of Congress approved July 15, 1870 (16 Stats., 305), and asking him further to communicate your request to the proper officers of said company, and that speedy action be taken thereon, has been forwarded to me.

Your letter above mentioned is the first demand or request received directly or indirectly from any one for such payment, and is the first intimation given that it would be required or expected to be made. Since receipt of your letter on Saturday last, the subject has had due and respectful consideration.

The patents to which you refer were issued long after the passage of the act mentioned, and they were issued without any demand or request for payment of costs. The provision of the act is to the effect that before any land granted to this company by the United States shall be conveyed to any party under any of the acts incorporating or relating to said company, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same, by the said company or party in interest.

The act was passed more than six weeks after the passage of the joint resolution No. 67, approved May 31, 1870, authorizing the company to issue its bonds and to secure the same by mortgage on its property and rights of property, including the granted lands. The words "party in interest," as used in the act, refer to mortgages or purchasers under the company.

There is no obligation or liability of the company or "party in interest" to the United States created by the provisions of the act to which you refer.

The lands were mortgaged by the company July 1, 1870, two weeks prior to the passage of the act requiring the costs of surveying, &c., to be paid to the United States before patents should be issued, and the mortgages or subsequent purchasers are the parties in interest. But their interest or estate cannot be burthened by the costs of surveying the lands. Neither can it be justly or lawfully claimed that they or the company are indebted to the United States for those costs by reason of the act referred to or the issuance of the patents.

If the company were to pay the money now demanded it would only be at the expense of the mortgages; and it cannot legally or equitably so dispose of any part of the fund appropriated in trust for the payment of the moneys lent by them on the security of the lands.

The foregoing is deemed a sufficient reply to the demand for payment into the Treasury of the \$26,182.38 mentioned; but inasmuch as the question may again arise, under the act of Congress approved July 31, 1876 (19 Stats., 121), I beg leave, respectfully, to submit the following additional statement:

(1) Congress in the grant to this company (13 Stats. at Large, sec. 4, p. 368) expressly enacted: "That patents shall be issued to the company, confirming to it the right and title to the granted lands situated opposite to, and coterminous with, the completed sections of the road, whenever commissioners appointed by the President shall verify the same;" and (sec. 6, p. 369) "That the President of the United States shall cause the lands to be surveyed for 40 miles in width on both sides of the entire line of said road, after the general route shall be fixed, and as fast as may be required by the construction of the said railroad."

(2) When the bill for this act was under consideration in Congress, several amendments were proposed in the Senate, among which was the following, numbered 24, namely:

"SEC. 21. *And be it further enacted*, That before any land granted by this act shall be conveyed to said company or party entitled thereto, under this act, there shall be first paid into the Treasury of the United States, by the said company or party in interest, the gross cost of surveying, selecting, and conveying the same, which amount shall, without any further appropriation, stand to the credit of the proper account, to be used by the Commissioner of the General Land Office for the prosecution of the survey of the public lands along the line of said road, and so from year to year until the whole shall be completed as provided under the provisions of this act." (Congressional Globe, first session Thirty-seventh Congress, 1863-'64, p. 3290.)

The Senate adopted this amendment, but after the report of a committee of conference it agreed to recede and it did recede therefrom. (*Ib.*, pp. 3459 and 3482.)

Precisely such provision was, however, incorporated in the other Pacific railroad act, approved the same day (13 Stats., pp. 356, 365); but it will be observed that the

grantee in that case received a money subsidy in addition to a grant of lands, and that the provision was incorporated in the grant itself, and was accepted by the grantee.

The Northern Pacific Railroad Company, therefore, *is exempted by law from the payment of such costs.* The proviso in the act of 1870 is repealed by that in the act of 1876, for the reason, in the language of the Supreme Court, that even where two acts are not in express terms repugnant, yet if the latter act covers the whole subject of the first, and embraces new provisions, plainly showing that it was intended as a substitute for the first act, it will operate as a repeal of that act. (*U. S. v. Tynen*, 11 Wallace, 83, 92, and cases cited by the court in the note.)

(3) The charter of the Northern Pacific Railroad Company is a contract between the United States and the company, and in respect of the grant cannot be altered by either without consent of the other. (*Davis v. Gray*, 16 Wallace, 203, 232, and cases cited; *Horne, &c., v. Rouse*, 8 H., 430, 437; *Bank v. Skelly*, 6 Black, 435, 448, &c.)

The very question now under consideration was decided by the supreme court of the State of Minnesota (The Northwestern Reporter, vol. 9, p. 761) in a case where a purchaser from the company claimed that his lands were not subject to State or municipal taxation under the authority of Railway Company v. Prescott (16 Wallace, 603) and Railway Company v. McShane (22 Wallace, 444). The court, after quoting the provision in the act of July 15, 1870, that before any land granted to the company shall be conveyed the costs of surveying, &c., shall first be paid by the company or party in interest, say:

"If, then, we leave out of view the provision before quoted as to the payment of the cost of surveying, &c.; the case is one in which, under repeated decisions of the Federal Supreme Court, the right and title of the company to the lands became such that they ceased to belong to the United States, and are, therefore, subject to taxation in accordance with the laws of this State. Is this result affected by the provisions as to payment of cost of surveying &c., in the act of July 15, 1870? We think not. These provisions seek to impose a new condition upon the grant of lands made by the act of 1864. They require the company to do something more than that act required it to do to earn the lands, viz, to pay the cost of surveying, &c. To that extent the contract of the United States with the company is attempted to be impaired, and although the Federal Constitution contains no limitations (in so many words) upon the power of Congress to pass laws impairing the obligation of contracts, the fifth amendment contains a clause declaring that no person shall be deprived of property without due process of law. This covers the case of a contract right, whether the contract be executed or executory, for a contract right of either kind is property. (*Rice v. Ry. Co.*, 1 Black, 358; *Clark v. Mitchell*, 64 Mo., 564; *Twitchell v. Com.*, 7 Wall., 321).

"We are therefore of opinion that it was not competent for Congress to pass the provision requiring the company to pay the cost of surveying, &c., as a condition precedent to its right to patents for the lands granted to it by the act of 1864, and that that provision is therefore not binding upon the company and does not affect its absolute, complete, and perfect right to such lands, and to the proper evidence of such right upon compliance with the terms in that act specified. The power of amendment reserved in the twentieth section of the charter obviously fails to embrace any authority to attach any such new condition to the grant. This case is distinguishable from Railway Company v. Prescott (16 Wall., 603) and Railway Company v. McShane (22 Wall., 444). In both of these cases the enactment requiring payment of the expenses of surveying, locating, and selecting the lands granted to the company, as condition precedent to the issue of patents, was one section of an act so amending the original charter of the Union Pacific Railroad Company as largely to increase its original grant of lands. That act was one whole, and in accepting and availing itself of the increase of its land grant the company accepted the whole act, thereby assenting to the imposition of this new condition attached to its right to its original land grant."

I respectfully submit that the foregoing presents ample reason why the Government has not heretofore demanded payment from this company of the costs of surveying and conveying the lands, and why the company has not paid them.

Your obedient servant,

GEO. GRAY,
General Counsel, Northern Pacific Railroad Company.

Hon. N. C. McFARLAND,

Commissioner of the General Land Office, Washington, D. C.

(Indorsement:) 28108. Received April 7, 1882. George Gray, No. 2 Nassau street, New York City. Date, April 3, 1882. Ref. to our letter 29th ult. to W. H. Mendenhall, regarding payment of \$26,182.38 as cost for surveying lands granted to Northern Pacific Railroad Company, and is of the opinion that it was not competent for Congress to pass proviso requiring company to pay said cost. To Secretary, with letter of April 38, 1882; copy retained. File with Northern Pacific Railroad papers. S. R. E. Returned by Secretary June 5, 1882.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., April 28, 1882.

SIR: A proviso to the act of Congress making appropriations for sundry civil expenses of the Government, approved July 15, 1870 (16 Stats., p. 305), declares that before any land granted to the Northern Pacific Railroad Company shall be conveyed to any party entitled thereto under any of the acts incorporating or relating to said company, "there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by said company or party in interest."

Being in an appropriation act, this proviso appears to have escaped attention in the division of this office charged with the adjustment of grants for railroad purposes until 1874, as I find no reference to it in the records relating to such grants until that year.

It does not appear in the table of acts relating to railroad grants published in the annual reports of this office prior to the report for the fiscal year ending June 30, 1874.

Between January 18 and November 4, 1873, patents were issued to said company for 743,906.64 acres of land in Minnesota, upon which the costs of surveying and conveying have not been paid.

The cost of surveying these lands, including office work, is \$26,020.53, and the cost of conveying the same is \$161.85, making a total of \$26,182.38. By letter from this office dated May 27, 1874, W. K. Mendenhall, resident attorney for said company, was informed that no more patents would issue until said costs were paid. The cost of selecting the land was paid at the time the selections were filed, such payment being also required by the general law of July 1, 1864 (13 Stats., p. 335).

Until very recently no further action appears to have been taken to secure the payment of these costs.

It is understood that the company sought relief by Congress, and this is probably the reason no demand for payment was pressed at the time, and the matter, being laid aside, escaped attention.

It came up in connection with the preparation of a recent report to the Department respecting land-grant railroads which were not completed within the statutory period.

In my letter of the 29th ultimo (copy inclosed), a demand for payment of the amount due, as above stated, was made through Mr. Mendenhall. I have received a communication, dated the 3d instant, from George Gray, esq., of New York City, general counsel for said company, in reply to said demand.

Mr. Gray claims that the act cited created no obligation or liability of the company or party in interest to the United States. He also claims that the company is not liable for costs of this kind, even under the proviso to the act of July 31, 1876 (19 Stats., p. 121), by which all companies to which grants have been made are required, unless exempted by law, to pay the cost of surveying, selecting, and conveying lands prior to the issue of patents.

I transmit this communication, which is equivalent to a refusal on the part of the company to pay the amount due, in order that steps may be taken to secure payment by judicial proceedings, or such other action had as may be by you deemed advisable.

Very respectfully;

N. C. McFARLAND,
Commissioner.

Hon. H. M. TELLER,
Secretary of the Interior.

(10.)

DEPARTMENT OF THE INTERIOR,
Washington, June 5, 1882.

SIR: The papers submitted to me with your communication of April 28, 1882, show that in the year 1873, between January 18 and November 4, patents were issued to the Northern Pacific Railroad Company for 743,906.64 acres of land in Minnesota, and that the cost of surveying and conveying such lands was \$26,182.38. That from the fact that the provision requiring the payment of such cost before conveyance was in an appropriation bill, the attention of the proper division was not called to the proviso until 1874, and, in consequence, payment of such cost was not required at the time the patents were issued. That the company now refuses, upon a demand properly made, to pay such cost, and claims further that it cannot be required to pay the expense of surveying, &c., any of the lands granted to it by the act approved July 2, 1864 (13 Stat., 365).

Section 4 of such act provides that upon the report of the Commissioners, patents shall be issued confirming to the company the *right* and *title* to the lands.

Section 5, that the President shall cause the lands to be surveyed for 40 miles in width, on both sides of the entire line, after the general route shall be fixed.

The act does not contain any provision requiring payment by the grantee of the costs of surveying, &c., the lands granted.

It seems that such a provision was adopted by the Senate when the act was under consideration, but that the Senate subsequently receded therefrom.

The act does provide that "Congress may at any time, *having due regard for the rights of said Northern Pacific Railroad Company*, add to, alter, amend, or repeal this act."

The appropriation bill before referred to, approved July 15, 1870 (16 Stat., 305), after appropriating \$95,980 for survey of lands within the limit of the land grant to such company, provides that, before any lands granted thereto shall be conveyed, there shall be first paid into the Treasury of the United States, by such company, the cost of surveying, selecting, and conveying the same.

The act approved July 31, 1876 (19 Stat., 121), provides that before any land granted to *any railroad company* by the United States under *any acts*, unless such company is by law exempted from the payment of such cost, shall be conveyed, there shall be first paid the cost of surveying, &c.

It is claimed by counsel for the company that the effect of the act of July 31, 1876, is to repeal the act of July 15, 1870, in respect to the provision above referred to; this may be true, but it does not appear how that affects the questions arising and the acts done before the act of July 31, 1876. The company claims that it is exempted by law from the payment of all such costs; that the grant of July 2, 1864, is a contract, that no new condition can be imposed, and that the acts of July 15, 1870, and of July 31, 1876, requiring the payment of such costs are invalid, and in violation of the provision in the fifth amendment to the Federal Constitution to the effect that private property shall not be taken for public use without just compensation.

This Department cannot disregard the acts of Congress, and treat them as invalid.

Congress made the appropriation of \$95,980 before referred to, and annexed thereto the provision that before the patents were issued the company should pay the costs of surveying, &c.

The company cannot well refuse to comply with the condition annexed to the appropriation. It has not, until the payment of such costs, absolute and complete title to the lands granted.

In *Railway Company vs. McShane* (22 Wall., 434), Mr. Justice Miller says:

"That the payment of these costs of surveying the land is a condition precedent to the right to receive the title from the Government can admit of no doubt. Until this is done, the equitable title of the company is incomplete. There remains a payment to be made to complete it.

"The title does not pass so as to subject the lands to State taxation until the patents are issued, or at least not until the costs of surveying are paid." (*Ib.*)

If the effect of the act of July 31, 1876, was to repeal the act of July 15, 1870, yet the provision in the act of 1876, being general, applies to the grant to the company in question.

In the original grant donating to the Northern Pacific Railroad Company a large amount of the public domain Congress expressly reserved the right to "add to, alter, amend, or repeal" the act:

The effect of that reservation, or whether under it Congress had the power to enact the provision in the law of 1876, relating to costs of surveying, &c., and apply it to the grant in question, is a subject for the consideration of the courts rather than for this Department.

It is further urged by the counsel for the company that payment of such expenses should not now be required, for the reason that the lands were mortgaged July 1, 1870—prior to the passage of the act requiring such payment—under sanction of a joint resolution of Congress, approved May 31, 1870, and that the mortgagees are the parties interested, and that their interest or estate cannot be burdened with such costs.

In answer to the same point made in the case already referred to (22 Wall., 444), the court said:

"It is not necessary to go into the merely technical question whether the legal title passed from the United States by virtue of that mortgage and the act of Congress which authorized it, nor whether, if it becomes necessary to foreclose the mortgage, the rights of the United States in the land would be divested by the proceeding."

It is claimed that the opinions given in 16 Wall., 603, and 22 *Ib.*, 444, do not apply to the grant in question, because the provisions relating to such expenses as to other grants were in amendatory acts, which enlarged the original grant, and were accepted by the grantees.

It can hardly be claimed, however, that the decisions were placed upon that ground. It was expressly held that the provision must be applied to the old grant as well as to the new one.

Some stress seems to have been given to the fact, alike true in this case, that the road had not been built at the time the amendatory act was passed. (16 Wall., 608.)

The fact that the patents issued to the company in 1873 were issued without requiring payment at the time of delivery, under the circumstances before stated, affords no just or equitable reason for a refusal on the part of the company to now comply with the plain requirements of the acts referred to.

It was perhaps as much the duty of the company to offer payment as of the Department to require it.

It is difficult to see how a mere delivery of the patents could be a waiver of payment, or a discharge of the indebtedness of the company to the Government for the expenses incurred.

It cannot be found under the circumstances of the delivery that there was any intention to issue the patents without payment.

If it is true that the act of July 15, 1870, is a valid act, and it must be so held by this Department until otherwise adjudicated, then there is no good reason why the company should not be held to pay such expenses.

The company has not complied with all the conditions of the grant, and is hardly in a condition to refuse to comply with the acts referred to, upon the technical ground that it obtained or received a delivery of the patents without payment of such expenses being requested at the time.

I am of the opinion that no further patents should be issued to the Northern Pacific Railroad Company without payment of the cost of surveying, selecting, and conveying the lands covered by the patents to be issued.

And also, that further patents should be withheld until the \$26,182.38 expense of surveying and conveying lands already patented shall be paid.

Notice was given by the Commissioner of the General Land Office to such company by letter to Mr. Mendenhall, its attorney, May 27, 1874, that no further lands would be certified for patents until the fees for surveying, &c., were paid, not only on the lands asked to be patented, but also on those already patented.

I think this view should be maintained, and also that you should not recognize the right of the Northern Pacific Railroad Company to make selection of lands until payment is made as herein specified.

Very respectfully,

H. M. TELLER,
Secretary.

The COMMISSIONER OF THE GENERAL LAND OFFICE.

(Indorsement:) 45140. General Land Office, received June 7, 1882, from Interior Department. Secretary, dated June 5, 1882, transmits opinions on papers submitted April 28, 1882, relative to the further issuance of patents to Northern Pacific Railroad Company. Edwards, June 10, 1882, copy to George Gray; Mendenhall advised. Instructions to railroad along line of grant from Minnesota to Washington Territory, inclusive, not to receive selections until further orders. File with Northern Pacific Railroad papers. S. R. E. Referred to Division F. Gray's argument returned with this, filed in its proper jacket. 1882 See 1882.

28, 108 93, 154

(11.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., June 10, 1882.

SIR: I inclose a copy of the opinion of the Secretary of the Interior, dated the 5th instant, respecting the liability of the Northern Pacific Railroad Company for the cost of surveying and conveying lands granted to said company.

Following the directions therein contained, payment of such costs will be required before the issue of patents to said company, and no further patents will be issued until the amount due upon lands patented in 1873 (\$26,182.38) is paid. Neither will further selections of land by said company be recognized until the above amount is paid, and the local officers of the proper districts have this day been instructed to decline to receive such selections until further orders.

Very respectfully,

N. C. MCFARLAND,
Commissioner.

GEORGE GRAY, Esq.,
*General Counsel Northern Pacific Railroad Company,
No. 2 Nassau Street, New York, N. Y.*

S. Ex. 126—2

(12.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., June 10, 1882.

SIR: You are advised that a copy of the opinion of the Secretary of the Interior, dated the 5th instant, respecting the liability of the Northern Pacific Railroad Company, for the cost of surveying and conveying lands granted to said company, has this day been transmitted to George Gray, esq., general counsel, at New York City.

I have also informed Mr. Gray that following the directions contained in said opinion, payment of such costs will be required before the issue of patents to said company, and no further patents will be issued until the amount due upon lands patented in 1873 (\$26,182.38) is paid.

Neither will further selections of land by said company be recognized until the above amount is paid, and the local officers of the proper districts have this day been instructed to decline to receive such selections until further orders.

Very respectfully,

N. C. MCFARLAND,
Commissioner.

W. K. MENDENHALL, Esq.,
Attorney for Northern Pacific Railroad Company, Washington, D. C.

(13.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., June 10, 1882.

GENTLEMEN: Pursuant to the direction of the Secretary of the Interior, in his letter of the 5th instant, that no further selections of land under the grant to the Northern Pacific Railroad Company be recognized until the costs of surveying and conveying certain lands patented to the company in 1873 are paid, you are instructed to decline to receive such selections if any are presented until further orders.

Very respectfully,

N. C. MCFARLAND,
Commissioner.

REGISTER AND RECEIVER,
Miles City, Mont.

Instructions similar to the above were sent to the local officers for all the land districts in which the grant to the Northern Pacific Railroad Company is situated.

(14.)

[Office of the general counsel of the Northern Pacific Railroad Company, No. 2 Nassau street.]

NEW YORK, *September 18, 1882.*

SIR: I have the honor to inform you that the Northern Pacific Railroad Company has this day paid to the Treasurer of the United States the sum of \$26,182.38 for cost of surveying, selecting, and conveying 743,906.64 acres of land in Minnesota, for which patents issued to this company in 1873 as per letter of the honorable the Commissioner of the General Land Office, of date March 29, 1882, and by reason of your decision of date June 5, 1882, a copy of which was transmitted to me by the Commissioner, with his letter of date June 10 last.

And I beg leave to say that the payment is made by the company under protest, and without waiving any rights it may have in the premises.

I have the honor to be, with great respect, your obedient servant,
 GEO. GRAY,
General Counsel Northern Pacific Railroad Company.

Hon. H. M. TELLER,
Secretary of the Interior.

(Indorsement :) 2802. M. 76835. Department of the Interior. Received Sept. 19, 1882. L. and R. R. Div. Rec'd Oct. 4, 1882. Geo. Gray, general counsel of Nor. Pac. R. R. Co., New York City, 18th Sept., 1882. States that the company has paid to U. S. Treasury \$26,182.38 for cost of surveying, &c., lands in Minnesota within grant limits. Oct. 6, 1882, Mr. Gray requested to furnish duplicate C D. File N. P. R. R. papers. S. R. E.

(15.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., October 6, 1882.

SIR: I am in receipt, by reference, of your letter of the 18th ultimo, advising the Secretary of the Interior that the Northern Pacific Railroad Company had that day paid to the Treasurer of the United States the sum of \$26,182.38, as cost of surveying and conveying certain lands in Minnesota for which patents issued to said company, which amount was held by this office in letter to you of March 29, 1882, and by the Department under date of June 5, 1882, to be due from the company under the act of July 15, 1870.

In order that this payment may be made a matter of record here in due form, I have to request that the duplicate certificate of deposit be forwarded to this office.

Very respectfully,

N. C. MCFARLAND,
Commissioner.

GEO. GRAY, Esq.,
General Counsel Northern Pacific Railroad Company,
No. 2 Nassau Street, New York, N. Y.

(16.)

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
Washington, D. C., December 5, 1882.

SIR: In compliance with your request of the 2d instant, I forward herein a duly authenticated copy of a certificate of deposit made September 21, 1882, by the Northern Pacific Railroad Company, in amount \$26,182.38.

Respectfully,

H. F. FRENCH,
Assistant Secretary.

Hon. N. C. MCFARLAND,
Commissioner General Land Office.

(Indorsement:) Treasury Department. Assistant Secretary, December 5, 1882. Forwards authenticated copy of C D made by N. P. R. R. Co., to the amount of \$26,182.38. Referred to Div. F, Dec. 8, 1882. J. W. D. Dec. 14, 1882, to R. & R. along line of grant, recalling instructions of June 10, 1882. Mendenhall advised. File with N. P. R. R. Co. papers. F. R. E.

(17.)

UNITED STATES OF AMERICA, TREASURY DEPARTMENT.
December 5, 1882.

Pursuant to section 582 of the Revised Statutes I hereby certify that the annexed is a true copy of an original paper on file in this Department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

CHAS. J. FOLGER,
Secretary of the Treasury.

No. 27030.]

TREASURY OF THE UNITED STATES,
Washington, D. C., September 21, 1882.

I certify that Northern Pacific Railroad Company has this day deposited to the credit of the United States \$26,182.38, on account of cost of surveying 743,906.64 acres of land in Minnesota under act approved July 31, 1876, 19 Statutes at large, page 131, for which I have signed duplicate receipts.

A. N. WYMAN,
Assistant Treasurer United States.

\$26,182.38.

The original in all cases to be transmitted to the Secretary of the Treasury at Washington.

(18.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., December 14, 1882.

GENTLEMEN: The Northern Pacific Railroad Company having paid the costs of survey referred to in my letter to you of June 10, 1882, the instructions therein are recalled.

Very respectfully,

REGISTER AND RECEIVER,
Miles City, Mont.

N. C. MCFARLAND,
Commissioner.

Instructions similar to the above were sent to the local officers for all the land districts in which the grant to the Northern Pacific Railroad Company is situated.

(19.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., December 14, 1882.

SIR: You are advised that by letters of this date I have recalled the instructions of June 10, 1882, to the local officers along the line of the grant to the Northern Pacific Railroad Company not to receive selections of land by said company.

Very respectfully,

N. C. MCFARLAND,
Commissioner.

W. K. MENDENHALL, Esq.,
Attorney Northern Pacific Railroad Company, Washington, D. C.

(20.)

NORTHERN PACIFIC RAILROAD COMPANY, PRESIDENT'S OFFICE,
New York, February 12, 1886.

SIR: Application was made by this company to the surveyor-general of Dakota for a statement of the cost of surveying lands in Cass County, Dakota, in pursuance of subdivision 7 of the circular instructions, November 7, 1879, in order that the company may pay into the Treasury of the United States the sum due for surveying. I am advised the surveyor-general is awaiting special instructions from your office before furnishing the statement.

I therefore beg leave respectfully to ask that the surveyor-general of Dakota be instructed to furnish this company with a statement of the amount of the cost of surveying the said lands, to the end that the company may pay the same into the Treasury of the United States.

Very respectfully, your obedient servant,

ROBERT HARRIS,
President.

HON. WILLIAM A. J. SPARKS,
Commissioner General Land Office, Washington, D. C.

Indorsement: 17386. General Land Office. Received February 13, 1886. Robert Harris, New York. Date, February 12, 1886. Subject: Asks that the surveyor-general of Dakota inform him of the cost of surveying certain railroad lands. Referred to Division "F," February 13, 1886. J. E. Answered February 19, 1886. Answered March 9, 1886, with statement of costs. T. C.

(21.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 19, 1886.

SIR: In reply to your request of the 12th instant that the United States surveyor-general of Dakota be instructed to furnish you with a statement of the costs of surveying lands in Cass County, Dakota, in pursuance of subdivision 7 of circular of instructions of November 7, 1879, you are informed that the statement of costs desired will be immediately prepared in this office and transmitted to you.

Very respectfully,

WM. A. J. SPARKS,
Commissioner.

ROBERT HARRIS, Esq.,
President Northern Pacific Railroad Company, New York City.

(22.)

NORTHERN PACIFIC RAILROAD COMPANY, PRESIDENT'S OFFICE,
New York, February 24, 1886.

SIR: I have the honor to inclose herewith copy of a resolution of the board of directors of this company adopted at the meeting of the directors on the 23d instant, and, in accordance with said resolution, I beg leave to represent that the company is ready to pay the cost of surveying, selecting, and conveying the lands appertaining to constructed sections of the road approved by the President of the United States, and to request that you will direct patents to be issued to the company for its lands already selected, and from time to time, as lists of selections shall be approved.

I beg to add, that in regard to special application made by me to the Commissioner of the General Land Office to be informed of the cost of surveying lands in Cass County, Dakota Territory, with a view to depositing with the United States Treasury the amount of the cost, I am informed by the Commissioner, under date of 19th instant, that the statement of costs desired will be immediately prepared in his office and transmitted to me.

Very respectfully, your obedient servant,

ROBERT HARRIS,
President.

Hon. L. Q. C. LAMAR,
Secretary of the Interior, Washington, D. C.

(Indorsement:) 22,641. General Land Office. Received February 27, 1886. Harris, Robert, President, New York, N. Y., February 24, 1886, incloses copy of resolution by Northern Pacific Railroad Company, and says the company is ready to pay costs of surveying, selecting, and conveying lands along constructed sections of company's road, and asks that patents be issued for lands already selected, &c. A. M. Department of the Interior, February 25, 1886. Respectfully referred to the Commissioner General Land Office for report. G. A. Jenks, Assistant Secretary.

(23.)

NORTHERN PACIFIC RAILROAD COMPANY'S OFFICE,
No. 30 Wall street, New York City, February 23, 1886.

I, Samuel Wilkeson, the secretary of the Northern Pacific Railroad Company, certify that the annexed is a true copy from the minutes by me kept as such secretary of a meeting of the board of directors of said company, duly held on the 23d day of February, 1886, and that a resolution, of which the annexed is a copy, was on that day unanimously adopted by said board of directors; and to this certificate, for verification, I affix the corporate seal of said company.

[SEAL.]

SAM'L NICKESON,
Secretary Northern Pacific Railroad Company.

Whereas the board of directors, at its meeting held on the 16th day of November, 1882, adopted resolutions, of which the following is a copy, viz:

"Resolved, That the company shall proceed with due diligence to obtain patents from the United States, confirming the title of the company to the lands granted to it by Congress to aid in the construction of the road, as provided in section 4 of the charter, and the president is hereby requested and instructed to cause the necessary steps to be taken to obtain patents by reason of constructed road heretofore approved by the President of the United States, and from time to time hereafter as constructed road shall be so approved. And it is further

"Resolved, That the president be, and he is hereby, authorized and instructed to cause to be paid into the Treasury of the United States the cost of surveying, selecting, and conveying said lands from time to time as such patents are issued or applied for, and that he make such payment, either under or without protest, as he may deem best for the interests of the company."

And whereas since the adoption of the said resolutions the company has repeatedly applied to and requested the Department of the Interior and the Commissioner of the General Land Office to issue patents to the company for lands adjacent to its constructed road, approved by the President of the United States, but the Interior Department and the Commissioner of the General Land Office have ever since the year 1882 uniformly declined to take any steps, or to permit any steps to be taken, towards the issuing to the company of any such patents;

And whereas the company is now, and has been since the adoption of the said resolutions, ready and willing to pay the cost of surveying, selecting, and conveying the surveyed lands appertaining to constructed sections of the road, which have been approved by the President of the United States under the provisions of section 4 of the charter: Therefore,

Resolved, That the president be instructed to officially inform the Secretary of the Interior that the company is ready now, as it has been in the past, and will be in the future, to pay the cost of surveying, selecting, and conveying the lands, and to request the Secretary to cause patents to be issued to the company for its lands now selected, and from time to time as lists of selections shall be approved.

(24.)

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., March 9, 1886.

SIR: In accordance with my letter to you of the 19th ultimo, I present the following statement of the cost of surveys of odd-numbered sections within the limits of the grant to the Northern Pacific Railroad Company in Cass County, Dakota:

Town.	Range.	Selected by company.	Field work.		Office work.		Total cost office and field work.
			Cost per acre.	Total.	Cost per acre.	Total.	
		<i>Acres.</i>	<i>Cents.</i>		<i>Cents.</i>		
139	49	4,827.80	2½	\$120 70		\$24 13	\$144 83
140	49	10,902.83	2½	299 83		54 51	354 34
141	49	10,781.39	3	323 44		53 91	377 35
142	49	10,533.71	3	316 01		52 67	368 68
143	49	9,800.08	3	294 00		49 00	343 00
137	50	11,447.61	2½	286 19		57 24	343 43
138	50	11,452.62	2½	286 32		57 26	343 58
139	50	11,482.24	2½	287 06		57 41	344 47
140	50	11,320.42	2½	283 01		56 60	339 61
141	50	11,554.63	2½	288 87		57 77	346 64
142	50	11,477.14	2½	286 93		57 39	344 32
143	50	11,533.52	2½	288 34		57 67	346 01
137	51	11,541.54	2½	317 39		57 71	375 10
138	51	11,513.10	2½	287 83		57 57	345 40
139	51	11,525.66	2½	288 14		57 63	345 77
140	51	11,301.26	2½	282 53		56 51	339 04
141	51	11,612.88	2½	290 32		58 06	348 38
142	51	11,525.70	2½	288 14		57 62	345 76
143	51	11,409.66	2½	286 74		57 35	344 09
138	52	11,414.04	2½	313 69		57 07	370 96
141	52	11,513.20	2½	287 83		57 57	345 40
142	52	11,486.76	2½	287 17		57 43	344 60
143	52	11,403.24	2½	285 08		57 01	342 09
137	53	11,502.32	2½	287 56		57 51	345 07
138	53	11,478.46	2½	286 96		57 39	344 35
139	53	11,484.38	2½	287 11		57 42	344 53
140	53	11,527.47	2½	288 19		57 64	345 83
141	53	11,496.22	2½	287 41		57 48	344 89
142	53	11,509.02	2½	287 73		57 55	345 28
143	53	11,465.12	2½	286 63		57 33	343 96
137	54	11,509.18	2½	287 73		57 55	345 28
138	54	11,471.47	2½	286 79		57 36	344 15
139	54	11,477.02	2½	286 93		57 39	344 32
140	54	11,581.04	2½	289 53		57 91	347 44
141	54	11,530.06	2½	288 25		57 65	345 90
142	54	11,497.43	2½	287 44		57 48	344 92
143	54	11,514.48	2½	287 86		57 57	345 43
137	55	11,477.04	2½	286 93		57 39	344 32
138	55	11,459.60	2½	286 49		57 36	343 79
139	55	11,465.88	2½	286 65		57 33	343 98
140	55	11,501.06	2½	316 28		57 51	373 79
141	55	11,542.92	2½	288 57		57 71	346 28
142	55	7,666.90	2½	191 67		38 33	230 00
143	55	11,495.16	2½	287 38		57 48	344 86
137	52	11,517.12	2½	287 98		57 50	345 52
139	52	11,299.00	2½	282 48		56 50	338 98
140	52	11,298.02	2½	282 45		56 49	338 94
142	55	3,836.84	2½	95 92		19 18	115 10
137	49	160.00	2½	4 00		80	4 80
138	49	640.00	2½	16 00		3 20	19 00
		529,824.24		13,514 63		2,649 13	16,163 76

I also have to add that at the request of this office, in December, 1883, your company paid into the United States Treasury the cost of surveying a list of 33,368.24 acres, situated in Cass County, Dakota.

It now appears that the office erred in computing the cost of surveying the lands in said list.

I therefore present the following statement, indicating the amount paid and the balance due, according to the readjustment:

Township.	Range.	Acres.	Paid field work, per acre.	Total paid.	Should have paid cost, per acre.	Total.	Due for field work.	Paid office work, per acre.	Total paid.	Should have paid cost, per acre.	Total.	Due for office work.
			<i>Mills.</i>		<i>Cents.</i>			<i>Mills.</i>		<i>Cents.</i>		
138	48	1,085.15	19	\$20 61	2½	\$27 13	\$6 52	1½	\$1 62		\$5 43	\$3 81
139	48	1,097.09	19	20 84	6	65 83	44 99	1½	1 63		5 49	3 86
140	48	1,476.35	19	28 05	6½	92 28	64 23	1½	2 21		7 38	5 17
137	48	686.74	19	13 04	1½	12 01	...	1½	1 03		3 43	2 40
141	48	16.88	19	32	4	67	35	1½	03		08	05
137	49	11,305.23	19	214 79	2½	282 63	67 84	1½	16 95		56 52	39 57
138	49	10,903.47	19	207 16	2½	272 59	65 43	1½	16 35		54 51	38 16
139	49	6,797.33	19	129 14	2½	169 93	40 79	1½	10 19		33 98	24 79
				633 95		923 07	290 15					
Deduct for overpayment of field work, township 137, range 48							1 03	Total due for office work				116 81
							289 12	Total due for field work				289 12
												405 93

Very respectfully,

S. M. STOCKSLAGER,
Assistant Commissioner.

ROBERT HARRIS, Esq.,
President Northern Pacific Railroad Company, New York.

